

STATE OF CALIFORNIA
DECISION OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD



PHYSICIANS NATIONAL HOUSESTAFF
ASSOCIATION,

Charging Party,

v.

THE REGENTS OF THE UNIVERSITY
OF CALIFORNIA,

Respondent.

CALIFORNIA ASSOCIATION OF
INTERNS AND RESIDENTS,

Real Party in Interest.

Case No. SF-CE-1-H

ON REMAND FROM THE
SUPREME COURT OF THE
STATE OF CALIFORNIA

PERB Decision No. 283a-H

June 4, 1986

Appearances: Claudia Cate, Attorney for The Regents of the University of California; Beeson, Tayer & Silbert by Franklin Silver for California Association of Interns and Residents.

Before Hesse, Chairperson; Morgenstern and Craib, Members.

DECISION

MORGENSTERN, Member: This case is before the Public Employment Relations Board (PERB or Board) on remand from the Supreme Court of California. In PERB Decision No. 283-H (1983), the Board found that housestaff¹ at University of California (University) affiliated hospitals are employees within the

¹"Housestaff" is a term used to describe medical interns, residents and clinical fellows. However, the status of certain clinical fellows was not at issue (see PERB Decision No. 283-H, footnote 3 at p. 3.).

meaning of section 3562(f) of the Higher Education Employer-Employee Relations Act (HEERA or Act.² Therefore, the University's refusal, effective August 1, 1979, to continue making authorized payroll dues deductions on behalf of the Physicians National Housestaff Association (PNHA) violated HEERA section 3571(a) and (b).³ The Supreme Court affirmed the Board's decision,⁴ but remanded to the Board for reconsideration of the remedy in light of the defunct status of PNHA.

When PNHA became defunct, the local housestaff organizations which had been affiliated with PNHA⁵ continued in existence for the purpose of representing University housestaff. The local organizations later formed a new umbrella organization, the California Association of Interns and Residents (CAIR). While the case was pending before the

²HEERA is codified at Government Code section 3560 et seq. Unless otherwise indicated, all statutory references herein are to the Government Code.

These provisions, inter alia, make it unlawful for a higher education employer to interfere with or deny employees or employee organizations rights guaranteed by the Act. Section 3585 of the Act requires employers, upon written authorization by an employee, to deduct and remit periodic dues (in the absence of an exclusive representative) to the employee organization of the employee's choice.

⁴Case No. S.F. 24803 (April 3, 1986)_____Cal. 3d_____.

⁵These organizations are: the Davis Association of Interns and Residents (DAIR); the Irvine Housestaff Association (IHA); and the San Francisco Interns and Residents Association (SFIRA).

Supreme Court, CAIR moved for an order substituting it as the real party in interest in place of PNHA, on the ground that CAIR is PNHA's successor in interest. The University did not oppose the motion, and it was granted by the Court.

By letter dated May 20, 1986, the Board received a stipulated suggested revised order from CAIR and the University. This suggested order essentially mirrors the Board's original order in Decision No. 283-H, with two exceptions: (1) the three local organizations, DAIR, IHA and SFIRA, are substituted for PNHA; and (2) the period of lost payroll dues deductions is limited to August 1, 1979 to September 1, 1979. The original order specified August 1, 1979 as the date the University unlawfully terminated payroll dues deductions, but did not specify an ending date for liability. However, as the parties noted in their May 20, 1986 letter to the Board, and as the record reveals, pursuant to an interim settlement agreement effective September 1, 1979, the University reinstituted payroll dues deductions and remitted them to the local housestaff organizations.

Upon review of the entire record in this case, and pursuant to the instructions of the Supreme Court of California, we find that the revised order suggested by the parties fairly and reasonably resolves the remedial issues raised by the defunct status of the original charging party, PNHA. We, therefore, adopt the suggested revised order with some minor, nonsubstantive changes.

ORDER

It is hereby ORDERED that the University and its representatives shall:

A. CEASE AND DESIST FROM:

Refusing to make payroll dues deductions for the housestaff in the University's post-graduate medical training programs at the medical schools at Irvine, San Francisco, and Davis on behalf of the Irvine Housestaff Association (IHA), the San Francisco Interns and Residents Association (SFIRA), and the Davis Association of Interns and Residents (DAIR) in violation of section 3571(a) and (b) of the Higher Education Employer-Employee Relations Act.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

1. The University shall reimburse the IHA, SFIRA, and DAIR for the dues they actually lost when the University terminated authorized payroll dues deductions for their members for a one-month period beginning August 1, 1979. Specifically, the University shall be liable for the dues of those members who remained employees of the University for that one-month period and whose dues the Associations did not collect through other means.

2. Within five (5) days following the date this Decision is no longer subject to reconsideration, post at all work locations where notices to housestaff customarily are placed, copies of the Notice attached as an Appendix hereto, signed by

an authorized agent of the University. Such posting shall be maintained for a period of thirty (30) consecutive workdays. Reasonable steps shall be taken to insure that this Notice is not reduced in size, defaced, altered or covered by any material.

3. Written notification of the actions taken to comply with this Order shall be made to the San Francisco regional director of the Public Employment Relations Board in accordance with her instructions.

4. Should the parties be unable to agree as to the exact amount of dues lost as a result of the University's unlawful termination of authorized payroll dues deductions, the matter shall be submitted to the San Francisco regional director for determination of the amount owed pursuant to this Order.

Chairperson Hesse and Member Craib joined in this Decision.

APPENDIX

NOTICE TO EMPLOYEES
POSTED BY ORDER OF THE
PUBLIC EMPLOYMENT RELATIONS BOARD
An Agency of the State of California



After a hearing in Unfair Practice Case No. SF-CE-1-H Physicians National Housestaff Association v. Regents of the University of California, in which all parties had the right to participate, it has been found by the Public Employment Relations Board, and affirmed by the Supreme Court of California in Case No. S.F. 24803, in which the Court permitted the substitution of the California Association of Interns and Residents as the real party in interest, that The Regents of the University of California have violated section 3571(a) and (b) of the Higher Education Employer-Employee Relations Act by ceasing to make payroll dues deductions for housestaff.

As a result of this conduct, we have been ordered to post this Notice, and we will abide by the following:

A. CEASE AND DESIST FROM:

Refusing to make payroll dues deductions for the housestaff in the University's post-graduate medical training programs at the medical schools at Irvine, San Francisco, and Davis on behalf of the Irvine Housestaff Association (IHA), the San Francisco Interns and Residents Association (SFIRA), and the Davis Association of Interns and Residents (DAIR) in violation of section 3571(a) and (b) of the Higher Education Employer-Employee Relations Act.

B. TAKE THE FOLLOWING AFFIRMATIVE ACTIONS DESIGNED TO EFFECTUATE THE POLICIES OF THE ACT:

The University shall reimburse the IHA, SFIRA, and DAIR for the dues they actually lost when the University terminated authorized payroll dues deductions for their members for a one-month period beginning August 1, 1979. Specifically, the University shall be liable for the dues of those members who remained employees of the University for that one-month period and whose dues the Associations did not collect through other means.

Dated:

THE REGENTS OF THE
UNIVERSITY OF CALIFORNIA

By _____
Authorized Representative

THIS IS AN OFFICIAL NOTICE. IT MUST REMAIN POSTED FOR AT LEAST THIRTY (30) CONSECUTIVE WORKDAYS FROM THE DATE OF POSTING AND MUST NOT BE REDUCED IN SIZE, DEFACED, ALTERED OR COVERED BY ANY MATERIAL.